

**REMARKS**

With entry of the present Amendment and Response, claims 1, 7, and 14 – 28 are pending; claims 2, 3, and 11 are withdrawn; and claims 4 – 6, 8 – 10, 12, and 13 are cancelled. Claims 1, 7, 14, 15, 18, 26 and 28 are amended. Support for the amended claims is found in the specification as filed. For example, support for the recitation of “the support frame having a proximal end and a distal end” in the specification includes paragraph [0069] and Figures 24, 25, and 27 of corresponding published US patent application 2004/0210301; support for the recitation of “*an overhang portion overlapping with an adjacent portion of the exterior surface of one of the one or more leaflets at the distal end of the support frame forming a pocket between the overhang portion and the adjacent portion of the leaflet*” in the specification includes paragraph [0073] and Figure 27; support for the recitation of “*a space between the extended overhang portion of each leaflet and a side of the leaflet body facing the vascular vessel wall forms a pocket*” between the legs of the support frame and “*the pocket running parallel to the leaflet body and opening toward the proximal end of the support frame*” in the specification includes paragraph [0073] and Figure 27; support for the recitation of “*a surface of the pocket facing the vascular vessel wall contacts the vascular vessel wall such that the pocket is adapted to capture retrograde fluid flow between the valve and the vascular vessel wall*” in the specification includes paragraph [0073] and Figure 27. No new subject matter is added.

**Response to Amendment**

This Response and Amendment is filed responsive to the final Office Action dated April 23, 2008.

## CLAIM REJECTIONS

### *Claim Rejections Under 35 U.S.C. § 112*

Claim 28 stands rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; namely, that an opening cannot restrict blood flow. Claim 28 is amended to address this issue, now reading, "an opening to *regulate* blood flow in the first direction *through the valve* when implanted in the vascular vessel." Reconsideration and withdrawal of this rejection are requested.

### *Claim Rejections Under 35 U.S.C. § 102*

Claims 1, 7, 18-24, 26, and 28 stand rejected under 35 USC 102(e) for allegedly being anticipated by US 6,440,164 ("DiMatteo"). Similarly, claims 1, 7, 18-26, and 28 stand rejected under 35 USC 102(b) for allegedly being anticipated by US 5,489,297 ("Duran"). Applicant respectfully submits that the basis for this rejection is obviated by the claim amendments above. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" (MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

In this case, the DiMatteo and Duran references do not teach or suggest each claimed element. For example, the Office Action points to the concavity of the valve leaflets in DiMatteo as "forming the pocket." This concavity is merely how the valve of DiMatteo operates to an open and a closed configuration. Consequently, DiMatteo fails to teach or suggest a medical device having a pocket structure as presently claimed. In the instant application, the pocket structure may encourage more rapid cell ingrowth from the vessel wall upon implantation, catch retrograde flow and provide a better seal between the device and the vessel wall (see, e.g., paragraph [0073] of

the corresponding published patent application, US 2004/0210301). For the same reasons, Duran fails to teach or suggest a medical device having a pocket structure as presently claimed. The Office Action similarly points to valve leaflet and during its operation to assume a concave shape. Accordingly, for at least these reasons, reconsideration and withdrawal of these rejections are requested.

*Claim Rejection Under 35 U.S.C. § 103*

Claims 25 and 27 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over US 6,440,164 (“DiMatteo”). In addition, claim 27 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over US 5,489,297 (“Duran”). For the reasons described above, reconsideration and withdrawal of these rejections are also requested

**Conclusion**

Applicants request prompt examination of the claims of this application on the merits. If the Examiner has any further questions, the Examiner is respectfully invited to telephone the undersigned attorney.

Respectfully submitted,

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